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EXAMINER

NGUYEN, LUONG TRUNG

ART UNIT PAPER NUMBER

2612

DATE MAILED: 12/18/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
08/859,276

Applicant(s)
Suzuki et al.

Examiner
Luong Nguyen

Art Unit
2612



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Nov 6, 2001

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-45 is/are pending in the application.

4a) Of the above, claim(s) 16-30 and 32-45 is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-15 and 31 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

20) ☐ Other:

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DETAILED ACTION

Response to Arguments

1. Applicant's election with traverse of the election of species requirement in species I, figure 4 which read on claims 1-15 and 31-35 in Paper No. 15 filed on 10/30/2001 is acknowledged.

The traversal is on the ground(s) that there is no burden on the examiner in searching three sets of species and that all species should be examined together. This is not found persuasive because the examiner made a *prima facie* showing of examining burden by pointing out the distinct species of the claimed invention. Although the Applicant may rebut this *prima facie* showing, mere assertions are not enough.

2. Claims 16-30, 36-45 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in Paper No. 15.

Further, claims 32-35 are also withdrawn from consideration for the reason below.

The examiner believes that claims 32-33 which claimed the feature “a device that prevents the output of frequencies that are lower or higher than the common voice frequency, and where the device is a filter” is disclosed as low pass/high pass filter 71 which is disclosed in figure 18, specification page 24. Therefore, this feature is read on the 2nd Species, figure 18. The 2nd Species is a non-elected species. Therefore, claims 32-33 are withdrawn from consideration by the examiner.

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The examiner believes that claims 34-35 which claimed the feature “a device that prevents recordation of the preset sound effect by use of a reverse phase of the preset sound effect phase, and where the device is an inverter” is disclosed as inverter 83 which is disclosed in figure 19, specification page 25. Therefore, this feature is read on the 3rd Species, figure 19. The 3rd Species is a non-elected species. Therefore, claims 34-35 are withdrawn from consideration by the examiner.

Claim Rejections - 35 USC § 112

3. Claims 1-15, 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 (line 10), claim 10 (line 3), claim 13 (lines 1-2), all these claims recite the limitation “a sound playback device”. However, in claim 13 (lines 5-6) recites the limitation “the sound playback device.” This is unclear.

Claim 1 (line 3), and claim 1 (line 9), on both lines recite the limitation “a sound recording device”. However, in claim 13 (line 4) recites the limitation “the sound recording device.” This is unclear.

Claims 2-15 and 31 are rejected as being dependent on claim 1.

4. Claim 13 (line 3) is recites the limitation “the” in “the controller”. There is insufficient antecedent basis for this limitation in the claim.

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 10-15, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto et al. (US 5,815,201) in view of Kawakami et al. (US 4,660,102).

Regarding claim 1, Hashimoto et al. disclose an electronic camera which captures both images and audio which are associated with the images, comprising an image device disclosed as CCD 9 (fig. 8, col. 6, lines 43-50); a sound recording device, disclosed as microphone 1 (fig. 8, col., lines 20-23); a storage medium, disclosed as memory card 16 (fig. 8, col. 7, lines 35-53); a release switch, disclosed as shutter release button 124 (fig. 1A, col. 4, line 12); a control device, disclosed as CPU 23 (fig. 8, col. 7, lines 17-65). Hashimoto et al. fail to specifically disclose a sound effect output device that outputs a preset sound effect when the release switch is operated. However, Kawakami et al. teach that when the shutter release button 142 of the camera is activated, in order to clearly notify the recording operation to the operator, a tone generating device (sound effect output device) may be arranged so that a pseudo-shutter sound (sound effect) is produced when the recording operation on the magnetic disk 124 is initiated (col. 4, lines 29-49). Therefore, it would have been obvious to one of ordinary skill in the art at the time

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the invention was made to modify the camera in Hashimoto et al. by the teaching of Kawakami et al. in order to clearly notify the recording operation to the operator (col. 4, lines 44-49).

Regarding claim 2, Hashimoto et al. disclose a view finder as view finder 134 (fig. 1B, col. 4, line 17); an information output device, disclosed as red LED 112 (fig. 1A, col. 4, lines 1-3).

Regarding claim 3, Kawakami et al. disclose the preset sound effect is a shutter sound effect (pseudo-shutter sound, col. 4, lines 44-49).

Regarding claim 4, Hashimoto et al. disclose the storage medium stores the images and the sounds together (see abstract).

Regarding claims 10-13, Hashimoto et al. disclose the image and associated audio are written into a memory of the camera (sounds stored in the storage medium) , and the image can be played or presented at the same time as the audio are presented to a user (a sound playback device, see abstract). Hashimoto et al. do not disclose a sound removing device. However, this is not a patentable distinction. The use of a sound removing device is so notoriously well-known as a way to removing sound effect in the sound recorded in order to get the desired sound recorded together with the images.

Regarding claim 14, Hashimoto et al. disclose a display as a color LCD panel (col. 6, lines 61-64).

Regarding claim 15, Hashimoto et al. disclose an illumination device as flash 20 (fig. 1A, col. 3, line 56).

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Regarding claim 31, Kawakami et al. disclose the preset sound effect is customizable (col. 4, lines 29-49).

7. Claims 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto et al. (US 5,815,201) in view of Kawakami et al. (US 4,660,102) in view of Arai et al. (US 5,576,758).

Regarding claims 5-6, Hashimoto et al. and Kawakami et al. do not explicitly disclose a setting device that sets a photographic environment and the setting device is a compression device. However, Arai et al. teach a digital electric still camera in which the image data is compressed before being recorded and data compression rate is selectable by operating a picture mode button (see abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the camera in Hashimoto et al. and Kawakami et al. by the teaching of Arai et al. in order to let the photographer can learn from the reproduced photographic scenes the optimum data compression rate for various scenes, and can select a suitable data compression rate during photographing (col. 2, lines 5-10).

Regarding claims 7 and 9, Kawakami et al. disclose sound effects as pseudo-shutter sound (col. 4, lines 44-49). Arai et al. disclose the compression rate (col. 3, lines 20-30). It is obvious that the frequency of the sound effect is changed based on the selected compression rate in order to be recorded sound associated with image data at different compression rate.

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Regarding claim 8, Arai et al. disclose the setting device further sets an information input apparatus operating mode (col. 3, lines 10-47).

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Luong Nguyen** whose telephone number is **(703) 308-9297**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wendy Garber**, can be reach on **(703) 305-4929**.

Any response to this action should be mailed to:


Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:
(703) 872 - 9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is **(703) 306-0377**.

LN LN
12/14/2001


WENDY R. GARBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600